

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA :

- v. - :

PROPOSED VOIR DIRE  
S2 08 Cr. 084 (DC)

JASON SMITH, :

a/k/a "Jason Ollivierre Smith," :

a/k/a "Jason Olivie," :

a/k/a "Jason R. Ollivierre," :

a/k/a "Jason R. Smith," :

a/k/a "Jason Roman Smith," :

a/k/a "Jason Ramon Smith," :

a/k/a "Jason Ollwie," :

a/k/a "Jason Roman," :

a/k/a "Jay Smith," :

a/k/a "Jason Ollgie," :

a/k/a "Jason Olligie," :

a/k/a "Joseph Mercado," :

a/k/a "Joseph Melcado," :

Defendant.

- - - - - x

**GOVERNMENT'S PROPOSED**  
**EXAMINATION OF PROSPECTIVE JURORS**

MICHAEL J. GARCIA  
United States Attorney  
Southern District of New York

AMIE N. ELY  
ERIC SNYDER  
Assistant United States Attorneys

- Of Counsel -

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**GOVERNMENT'S PROPOSED  
EXAMINATION OF PROSPECTIVE JURORS**

The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors. The Court is requested to pursue more detailed questioning at the sidebar or in the robing room if a prospective juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry as to whether the particular fact or circumstance would influence the

prospective juror in favor of or against either the Government or the defendant.

**The Charges**

1. This is a criminal case. The defendant, JASON SMITH, has been charged with the commission of federal crimes in an Indictment filed by a grand jury sitting in this District. The Indictment contains two counts. Count One charges the defendant with being a felon in possession of a firearm on or about January 5, 2008. Count Two charges the defendant with possessing marijuana on or about that same date.

2. Does any juror have any personal knowledge of the charges in the Indictment as I have described them? Have you read or heard anything about this case? If so, is there anything that you have read or heard that would cause you to feel that you cannot decide the facts of this case fairly and impartially?

3. Does any juror feel that he or she could not view fairly and impartially a case involving such charges? Has any juror formed an opinion that the actions charged in the Indictment, as I have described them to you, should not be crimes?

4. Do any of you have any opinion about the enforcement of the federal weapons laws, or, specifically, the laws concerning the possession by felons of firearms, that might prevent you from being fair and impartial in this case? Do any

of you believe that the possession of firearms by felons should not be illegal, or that the laws governing these crimes should not be enforced?

5. Do any of you believe that it should not be a crime for a person who has been convicted of a felony to possess a firearm or ammunition?

6. Do any of you believe that the federal government should not limit a person's right to bear arms or ammunition?

7. Has any juror been involved-as defendant, victim or any other way-in a case involving a firearm or ammunition? Has any juror's relative, close friend, or associate ever been involved-as a defendant, victim, or in any other way-in a case involving a firearm or ammunition?

8. Do any of you have any opinion about the enforcement of the federal drug laws, or the laws concerning marijuana specifically, that might prevent you from being fair and impartial in this case? Do any of you believe that the possession of marijuana should not be illegal, or that the laws governing these crimes should not be enforced?

9. Has any juror been involved in an offense involving drugs? Has any juror's relative, close friend, or associate been involved in an offense involving drugs? Has any juror, or any member of a juror's family, or any juror's close

friend, had any experiences of any kind, directly or indirectly, with marijuana or other controlled substances?

**Knowledge of the Trial Participants**

10. Does any juror know, or has he or she had any dealings, directly or indirectly, with the defendant, JASON SMITH, who has also been known as JASON MERCADO, or with any relative, friend, or associate of the defendant?

11. Does any juror have any relatives, friends, associates, employers, or employees who know or who have any dealings with the defendants, or with any relative, friend, or associate of the defendants?

12. The Government is represented here, as in all cases in which it is a party before this Court, by the United States Attorney for the Southern District of New York, Michael J. Garcia. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Amie N. Ely and Eric Snyder, with the assistance of paralegal Noha Moussa. Do any of you know Mr. Garcia, Ms. Ely, Mr. Snyder, or Ms. Moussa? Have any of you had any dealings, either directly or indirectly, with any of these individuals?

13. The Government attorneys will be assisted by Det. Rodrigo Ayala of the New York City Police Department, Firearms Enhancement Unit. Has any juror had any dealings, either directly or indirectly, with him?

14. The defendant, JASON SMITH, is represented by Dierdre D. von Dornum and Fiona Doherty, of the Federal Defenders of New York, Inc. Do any of you know either Mr. von Dornum or Ms. Doherty? Has any juror had any dealings, either directly or indirectly, with either attorney?

15. I will now read you a list of names of individuals who may be mentioned during the trial or who may be witnesses in this case.

- a. Officer Hermino Baez
- b. Officer Brian Leo
- c. Officer Patrick Sullivan
- d. Officer Katherine Corsell
- e. Detective Randall Litrell
- f. Agent Walter Kudron
- g. Detective William Bieniek
- h. Nilda Mercado
- i. Quasheeba Campbell

Do any of you know any of these people? Has any juror had any dealings, either directly or indirectly, with any of these individuals?

16. I will now advise you that certain areas in the Bronx, specifically the area near East Tremont Ave. and Morris Park Ave., will be mentioned during the trial, as will the 48<sup>th</sup>

Precinct police station house. Are any of you familiar with these locations?

**Relationship With Government**

17. Does any juror know, or have any association -- professional, business, or social, direct or indirect -- with any member of the staff of the United States Attorney's Office for the Southern District of New York, or the New York City Police Department? Is any member of any juror's family employed by any law enforcement agency, whether federal, state or local?

18. Has any juror -- either through any experience he or she has had or anything he or she has seen or read -- developed any bias or prejudice for or against the United States Attorney's Office, or the New York City Police Department?

19. Has any juror, or has any member of any juror's family, either as an individual or in the course of his or her business, ever been a party to any legal action or dispute with the United States or any of the officers, departments, agencies, or employees of the United States, or had any interest in any such legal action or dispute or its outcome?

20. The Government witnesses in this case will consist in part of police officers and other personnel from the New York City Police Department. Would any of you be more likely to believe a witness merely because he or she is an officer of the



New York City Police Department or other law enforcement agency?  
Would any of you be less likely to believe a witness merely because he or she is an officer of the New York City Police Department or other law enforcement agency?

21. Does anyone have any personal feelings or experiences concerning the New York City Police Department that would in any way affect their ability to be fair and impartial in this case?

22. Have you, or any of your close friends or relatives, ever been stopped or questioned by any member of the New York City Police Department? *[As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire, at the bench or in the robing room, into the circumstances of each incident and that prospective juror's reaction to how he or she was treated by the NYPD.]*

**Relationship With Federal Defenders**

23. Has any juror been represented by the Federal Defenders of New York, Inc.?

24. Does any juror have any relatives, friends, associates, employers, or employees who know or who have been represented by the Federal Defenders of New York, Inc.?

**Prior Jury Service**

25. Has any juror ever at any time served as a member of a grand jury, whether in federal, state, county, or city court? If so, when and where?

26. Has any juror ever served as a juror in a trial in any court? If so, in what court did he or she serve and was it a civil or criminal case? What type of case was it? Did the jury reach a verdict?

**Experience as a Witness, Defendant, or Crime Victim**

27. Has any juror or any relative or close friend ever been involved or appeared as a witness in any investigation by a federal or state grand jury or by a congressional or state legislative committee, licensing authority, or governmental agency, or been questioned in any matter by a federal, state, or local law enforcement agency?

28. Has any juror or any relative or close friend ever been a witness or a complainant in any hearing or trial, whether state, local, or federal?

29. Is any juror, or is any member of his or her family, or a close friend, now under subpoena or, to the best of the juror's knowledge, about to be subpoenaed in any criminal case?

30. Has any juror, or has any member of any juror's family, or any associate or close friend, ever been charged with a crime?

31. Has any juror, or has any relative, associate, or close friend ever been the subject of any investigation or accusation by any federal or state grand jury?

32. Has any juror or any friend, associate, or relative ever been a victim of a crime? *[As to any juror who answers affirmatively, the Court is respectfully requested to inquire, at the bench or in the robing room, into the circumstances of the crime.]*

#### **Investigative Techniques**

33. Does anyone have any expectations about the types of evidence that the Government should or will present in this criminal trials, or in a criminal trial more generally?

34. Would any of you be unable to follow the judge's instructions that the Government is not required to use any particular investigating technique in presenting evidence of a crime?

#### **Juror's Background**

35. The Government respectfully requests that the Court ask each juror to state the following information:

a. the juror's age;

- b. the area in which the juror resides and any other area the juror has resided during the last ten years;
- c. where the juror was born;
- d. the juror's educational background, including the highest degree obtained;
- e. whether the juror has served in the military;
- f. the juror's occupation;
- g. the name and location of the juror's employer, and the period of employment with that employer;
- h. the same information concerning other employment within the last five years;
- i. the same information with respect to the juror's spouse and any working children;
- j. what newspapers and magazines the juror reads and how often;
- k. what television programs the juror regularly watches;
- l. whether the juror watch "Law and Order," "CSI," "Bones," or other police dramas;
- m. the juror's hobbies and leisure-time activities, and organizations;
- n. whether the juror owns or has ever owned a firearm, and whether anyone in the juror's immediate family owns or has ever owned a gun; and
- o. whether the juror has any bumper stickers on his or her car or any signs or flags in his or her windows.

Dated: New York, New York  
July \_\_, 2008

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York

By: \_\_\_\_\_  
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Assistant United States Attorneys  
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